

Audit Report

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**Maryland Health Benefit Exchange**

October 2018

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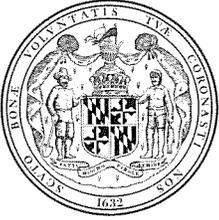
**OFFICE OF LEGISLATIVE AUDITS**  
DEPARTMENT OF LEGISLATIVE SERVICES  
MARYLAND GENERAL ASSEMBLY

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DEPARTMENT OF LEGISLATIVE SERVICES  
OFFICE OF LEGISLATIVE AUDITS  
MARYLAND GENERAL ASSEMBLY

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October 30, 2018

Senator Craig J. Zucker, Co-Chair, Joint Audit Committee  
Delegate C. William Frick, Co-Chair, Joint Audit Committee  
Members of Joint Audit Committee  
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Maryland Health Benefit Exchange (MHBE) for the period beginning July 24, 2014 and ending June 30, 2017. MHBE is primarily responsible for the establishment and operation of the Maryland state-based health insurance exchange, which is intended to provide a marketplace for individuals, families, and small businesses to purchase affordable health coverage as a means to reduce the number of Maryland residents who have no health insurance.

Our audit disclosed that MHBE did not adequately verify applicant income to determine eligibility for Medicaid and did not properly control access to the Maryland Health Connection (MHC) used to process these applications. MHBE did not verify certain applicants' income against available federal tax information but instead, under certain conditions, limited the verification to State wage data which would not identify all potential applicant income. MHBE also granted 119 individuals the ability to perform critical functions within the MHC, such as changing an individual's eligibility determination, and did not monitor the related activity to ensure it was proper. For example, we identified 12,700 instances in which the eligibility status was changed without independent review during the period from July 2016 to September 2017.

We also noted MHBE did not obtain approval of its Board for awards made under its multi-year Information Systems Master Contract, and did not adequately document its evaluation of vendor task order proposals nor ensure that all vendors and their related employees approved under the task orders were properly qualified. MHBE also did not sufficiently verify the propriety of billings from its customer support vendor, which totaled \$25.6 million during fiscal year 2017 and did not verify certain grant expenditures. For example, MHBE did not obtain

documentation, such as detailed time summaries, from the support vendor to substantiate the amounts billed for labor charges. Certain information systems security and controls were lacking. For example, controls over program changes did not ensure that only management-approved changes were placed into production. Furthermore, MHBE did not deploy an intrusion detection prevention system for encrypted traffic entering its network and did not obtain certain security assurances over critical data on servers hosted by contractors.

As further explained on page 6 of this report, our audit scope was limited with respect to MHBE's Medicaid eligibility determination and redetermination processes because of restrictions imposed by the federal Internal Revenue Code on access to federal tax information as well as MHBE's application of those restrictions to applicant data.

MHBE's response to this audit is included as an appendix to this report. We wish to acknowledge the cooperation extended to us during the course of this audit by MHBE.

Respectfully submitted,



Thomas J. Barnickel III, CPA  
Legislative Auditor

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## **Background Information**

### **Agency Responsibilities**

Under the provisions of the Insurance Article of the Annotated Code of Maryland, the Maryland Health Benefit Exchange (MHBE) is a public corporation and independent unit of state government that was established to implement the federal Patient Protection and Affordable Care Act (ACA) in Maryland.

Consistent with the ACA, the primary purpose of MHBE is to reduce the number of Maryland residents who have no health insurance.

MHBE has a nine-member Board of Trustees (the MHBE Board) that includes the Secretary of the Maryland Department of Health (MDH), the Maryland Insurance Commissioner, the Executive Director of the Maryland Health Care Commission, and six other persons appointed by the Governor including three who represent employers and individual consumer interests. The MHBE Board is responsible for governing and managing MHBE. Under its enabling legislation, MHBE is exempt from a number of State laws and regulations, including procurement and inventory control. Consequently, the MHBE Board is responsible for establishing various policies and procedures governing MHBE operations.

MHBE established Maryland's state-based health insurance exchange, referred to as the Maryland Health Connection (MHC), to provide a marketplace for individuals, families, and small businesses to purchase affordable health coverage. The MHC was implemented in November 2014 and consists of several computer processing platforms that perform various functions. Acting together, these platforms enable Maryland residents to explore qualified health insurance plans, compare rates, and determine their eligibility for tax credits, cost sharing reductions, and public assistance programs such as Medical Assistance (Medicaid) and the Maryland Children's Health Insurance Program. Once an individual or family selects a qualified health plan or available program, they may use the MHC internet portal to enroll in that plan or program.

MDH has agreements with both MHBE and the Department of Human Services (DHS) delegating responsibility for Medicaid eligibility determinations and redeterminations. MHBE is responsible for processing income-based determinations via its automated system, and DHS is responsible for processing non-income based determinations (that is, for applicants applying for other DHS benefits such as disability or Temporary Cash Assistance). Applications that are rejected or flagged by the MHC are forwarded to DHS or MDH for additional processing and review.

Since April 1, 2014, small business owners have been able to enroll their employees in health insurance plans certified under the ACA Small Business Health Options Program. Employers with 1 to 50 employees may purchase insurance plans directly from a carrier, a third-party administrator, or a broker, and for those who are eligible, employers receive federal small business tax credits.

MHBE also administers the Connector Program, which provides grants to entities organized geographically in Maryland to provide outreach and enrollment services in their respective regions with the purpose of educating and assisting Maryland residents in obtaining health insurance.

## **Financial Activity**

According to the State's records, MHBE's fiscal year 2017 expenditures totaled approximately \$116.9 million. These expenditures were funded by State funds totaling \$32.6 million, federal funds totaling \$44.7 million, and a transfer of funds from the Maryland Health Insurance Plan (MHIP)<sup>1</sup> totaling \$39.6 million. MHBE expenditures related primarily to information technology (IT) development, outreach and consumer assistance, reinsurance payments administered by MHBE, and agency operations necessary to maintain the MHC. The healthcare costs associated with individuals enrolled in Medicaid via the MHC are included in the budget of the Maryland Department of Health – Medical Care Programs Administration.

## **Audit Scope Limitation**

Our audit scope was limited with respect to MHBE's Medicaid eligibility determination and redetermination processes due to restrictions imposed by the federal Internal Revenue Code (IRC) on access to federal tax information (FTI) as well as MHBE's application of those restrictions to applicant data. According to the State Government Article, Section 2-1223 of the Annotated Code of Maryland, our access to records extends to all agency records except as prohibited by the federal IRC. Section 6103 of the IRC provides that FTI may be used by officers, employees, and contractors of the United States Department of Health and Human Services, an Exchange established under the Affordable Care Act, or a state agency for purposes of determining eligibility as it relates to health care

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<sup>1</sup> Chapter 321, Laws of Maryland, 2016 terminated MHIP effective July 1, 2016. At that time, its remaining employees, property, assets, liabilities, obligations, and credits were transferred to MHBE.

options. Internal Revenue Service *Publication 1075* further describes that the authority to receive federal return information does not extend to independent state audit agencies unless a contractual relationship is established which conforms to the disclosure requirements of IRC Section 6103. Due to the requirements associated with establishing this contractual relationship, it was not feasible to pursue this option within the time parameters of our audit.

To determine applicant eligibility, MHBE performs certain procedures including, as discussed further in Finding 1, matching certain applicant attested financial information against FTI to verify the recorded income. MHBE management and legal counsel have asserted that the Office of Legislative Audits (OLA) is restricted from viewing FTI in accordance with the aforementioned federal and State laws. In addition, MHBE extended this restriction to information identifying whether applicant information was verified against the Maryland Automated Benefits System or FTI because it believed this information would constitute FTI as defined under the aforementioned IRC. As a result, during our audit, we could not review a key portion of the MHBE eligibility determination and redetermination processes or the related FTI information to assess whether proper determinations were being made. Legal counsel to the Maryland General Assembly concurred that OLA is limited in its access to FTI.

### **Status of Finding From Preceding Audit Report**

Our audit included a review to determine the status of the 10 findings contained in our preceding audit report dated October 2, 2015. We determined that MHBE satisfactorily addressed 7 of these 10 findings. The remaining 3 findings are repeated in this report.

# Findings and Recommendations

## Medicaid Eligibility

### Background

As Maryland's administering agency for the Medical Assistance program (Medicaid), the Medical Care Programs Administration (MCPA) of the Maryland Department of Health (MDH) is responsible for establishing regulations, guidelines, and procedures for Medical Assistance applicant eligibility. Historically, eligibility determinations have been processed by local departments of health and local departments of social services located across the State. In September 2013, MDH and the Maryland Health Benefit Exchange (MHBE) entered into a memorandum of understanding under which MHBE processes Medical Assistance eligibility determinations and redeterminations for income-based coverage groups. This includes certain categorically eligible or medically needy applicants with household income up to 138 percent of federal poverty guidelines — the dollar threshold of which is determined by family size.

Individuals may now apply for Medical Assistance or a Qualified Health Plan through the Maryland Health Connection (MHC), which is MHBE's consumer exchange system portal. Individuals may access MHC by phone via MHBE's consumer support contractor, directly through the MHC website, using the MHC mobile app, or in-person at various locations that are capable of providing personal assistance with eligibility determinations. These locations include local departments of health, local departments of social services, MHBE, and designated MHBE connector entities.

In accordance with MCPA's applicant data verification plan approved by the federal Centers for Medicare and Medicaid Services (CMS), MHBE matches applicant attested identification information (such as, date of birth and social security number) and citizenship or immigration status through the Federal Data Sharing Hub (FDSH). Simultaneously, MHBE matches applicant attested income to the Maryland Automated Benefits System (MABS) maintained by the Department of Labor, Licensing and Regulation's (DLLR) Division of Unemployment Insurance (DUI). MABS is an electronic database that contains employer reported wages for most Maryland workers and unemployment insurance benefits paid. In certain situations, applicant attested income is verified to federal tax information (FTI) on FDSH. Discrepancies are subject to a manual verifications performed by designated Department of Human Services (DHS) or MDH employees. A similar process is used to verify Medicaid enrollee income during the annual redetermination process.

During fiscal year 2017, individuals applying for health insurance coverage through MHC resulted in 1,281,354 individuals who were determined to be eligible for Medicaid and 137,312 individuals who were enrolled in a Qualified Health Plan as of June 30, 2017. According to State records, Medicaid payments made by MDH totaled \$10.7 billion during fiscal year 2017.

**Finding 1**

**MHBE relied solely on MABS, without using FTI, to verify the income of certain applicants even though MABS excluded many types of applicant income.**

**Analysis**

MHBE relied solely on MABS, without using FTI, to verify the income of certain applicants even though MABS excluded many types of income. That is, MHBE conducted income verifications using FTI only if no MABS record was located for the applicant. If the MABS wage data matched the applicant attested income within certain tolerance levels, no additional verification was performed using FTI. If the MABS wage data exceeded the applicant attested income beyond the tolerable level, a manual review was performed, which did not involve using FTI.

Using MABS data exclusively for income verification purposes has inherent limitations that restricts its effectiveness. MABS data does not include all types of income and, therefore, may not identify applicants who omit or underreport their income. For example, MABS does not include interest, dividend, alimony, and rental income—all of which must be considered for Medicaid eligibility. In addition, MABS would not identify wages earned from certain employers exempt from reporting to DLLR, such as federal agencies and non-Maryland-based employers, and would not identify any net earnings from self-employment.

Furthermore, MHBE's verification of applicant data to MABS data excluded available unemployment compensation data. Specifically, MHBE did not obtain MABS unemployment compensation data from DUI to use in its verification process and, as a result, the verification would not identify underreported or omitted unemployment compensation. MHBE entered into a data sharing agreement with DUI on June 4, 2015 to request MABS data but excluded unemployment insurance compensation data from the agreement.

We could not determine the portion of applications that MHBE verified as being proper based on these incomplete income verifications. Specifically, MHBE would not provide us with a listing of all applicants whose income had been verified based solely on the MABS data match because of concerns that doing so may violate federal restrictions on disclosing FTI information. Our individual

review of 52 applications, which included 120 household members, disclosed that MHC verified income eligibility using only the MABS database for 20 individuals on 18 applications (35 percent).

Federal regulations require state-based exchanges to request financial information from various state (for example, DUI) and federal agencies (for example, Internal Revenue Service data maintained in the FDSH) that is necessary to verify applicants' income. Although MHBE's income verification methodology was in accordance with MCPA's CMS-approved plan, given the limited information recorded in MABS, we believe all applications should also be verified against the FTI data.

### **Recommendation 1**

**We recommend that MHBE verify all applicant income information using both MABS and FTI data and, in conjunction with MCPA, amend the agreement with CMS to require such a verification.**

### **Finding 2**

**MHBE did not properly restrict or document its review of user access to MHC and did not use available reports to monitor critical changes to applicant eligibility information.**

### **Analysis**

MHBE did not properly restrict or document the review of user access to MHC and did not use available reports to monitor critical changes to applicant eligibility information. As a result, unauthorized changes to applicants' data and enrollment status could be made and go undetected. According to MHBE's records, as of March 2018, there were 1,221 active MHC users, including employees of other State agencies and outside contractors. On October 18, 2017, MHBE provided us with a system-generated user access report. Based upon our review of this report and additional information provided by MHBE, we noted the following conditions:

- MHBE granted 119 individuals the SuperUser role. The SuperUser role included the ability to perform critical functions within the MHC. For example, a user assigned the SuperUser role could perform an override function to change an individual's eligibility determination in MHC and grant an applicant health insurance (such as Medicaid) for which the applicant was not eligible without altering the individual's underlying application data.

According to MHBE's records, during fiscal year 2017, there were 5,885 overrides processed that affected 14,294 enrollees. MHBE management advised us that the override feature is commonly and appropriately used in certain circumstances, such as to change an enrollee's effective coverage date to provide retroactive coverage. MHBE further advised us that MHC has the capability to generate reports of overrides for management review; however, as of January 2018, this feature had not been implemented and MHBE did not review override transactions for propriety.

- MHBE's annual review of critical MHC user access capabilities was not adequately documented. For example, an October 2017 recertification report for 85 of the aforementioned 119 SuperUsers that were employees of other State agencies or outside contractors indicated that access was still needed for 82 of these individuals. However, there was no documentation on the reports indicating who performed the recertification and the date of the review.
- MHBE did not review changes subsequently made to the initial eligibility status (verified or failed) of applicants whose eligibility had been manually determined. As noted in Finding 1, applicants whose attested information did not match against the MABS and FDSH databases were subjected to a manual verification process, which was performed Statewide by 760 individuals. The access provided to all of these individuals allowed them to subsequently change the initial eligibility status of any applicants whose eligibility was manually determined including the status of those applications to which they were not assigned. Accordingly, these individuals could change a "failed" status to "verified" (eligible) status, effectively circumventing the manual verification performed. Furthermore, these changes were not subject to independent supervisory review and approval.

MHBE advised us that the capability exists within the MHC to identify manual changes made to the initial eligibility status to facilitate a management review; however, this automated security feature had not been implemented. According to MHBE's records, during the period July 2016 to September 2017, approximately 12,700 instances were identified in which the outcome of the manual verification to determine eligibility was changed from "failed" to "verified" by individuals who were not responsible for the initial eligibility determination verification. These 12,700 instances relate to eligibility for both Medicaid and Qualified Health Plans, and we were not readily able to determine the number that affected Medicaid eligibility versus Qualified Health Plan eligibility.

While these manual verifications were performed by various State agency personnel across the State, the manual adjustments were made in MHBE's system, and MHBE has agreed it should be ensuring the accuracy of these adjustments. We were unable to test the appropriateness of these adjustments, and therefore the propriety of eligibility determinations being made, due to the restrictions of our access to FTI as previously described in the Background of this report.

Best practices contained in the State of Maryland *Information Security Policy* require agencies to monitor the security controls over their information systems at least annually to ensure that the access is strictly controlled and restricted to appropriate personnel.

## **Recommendation 2**

**We recommend that MHBE**

- a. limit access to the SuperUser role to staff requiring such access and use available system features to obtain reports to monitor any changes to critical information (override transactions) processed by SuperUsers,**
- b. ensure that all user capabilities are subject to an annual review by appropriate independent supervisory personnel and that such reviews are adequately documented, and**
- c. use available system reports to identify and review changes to the initial manual verification eligibility status.**

## **Purchases and Disbursements**

### **Background**

MHBE is exempt from most procurement laws and regulations. State law directed the MHBE Board of Trustees (the MHBE Board) to adopt written policies and procedures governing all MHBE procurements. Accordingly, MHBE established written procurement policies that were approved by the MHBE Board, effective June 27, 2011. According to MHBE's procurement records, during fiscal year 2017, MHBE awarded contracts, which included task orders under its Information Systems Master Contract, totaling \$70.6 million.

**Finding 3**

**MHBE did not obtain MHBE Board approval for its Information Systems Master Contract and did not adequately document its evaluation of vendor task order proposals nor ensure that all vendors approved under the individual task orders were properly qualified.**

**Analysis**

MHBE did not obtain approval from the MHBE Board for its Information Systems Master Contract and did not adequately document its evaluation of vendor task order proposals nor ensure that all vendors approved under the individual task orders were properly qualified. MHBE entered into a master contract to obtain information technology (IT) consulting and technical support services for its MHC for the period from July 1, 2015 through June 30, 2018. The master contract had no maximum contract value. MHBE approved multiple vendors under the master contract to work on one or more of the 10 IT functional areas, depending on their technical proficiency. MHBE issued task order requests for resumes (TORFR) to the approved vendors as specific tasks were needed.

During fiscal year 2017, MHBE awarded \$7.3 million in task orders under the master contract. We reviewed the master contract and four TORFR solicitations made during fiscal years 2016 and 2017, which resulted in nine task orders totaling \$2.6 million, and noted the following conditions.

The master contract and subsequent task order awards were not approved by the MHBE Board

MHBE did not obtain MHBE Board approval for the master contract and for any of the tested task orders. While MHBE's procurement policy does not specifically address master contracts or TORFRs, it does require formal contracts with a total cost of at least \$200,000 to be approved by the MHBE Board. Based on the anticipated and subsequent actual usage of the master contract, MHBE should have obtained the Board's approval for the master contract and TORFRs in excess of \$200,000. As noted above, the master contract did not contain an overall expected value; however, MHBE awarded 21 task orders in fiscal year 2017 totaling \$6.4 million that were each valued at \$200,000 or more. MHBE had not submitted any of these awards to the MHBE Board for approval.

MHBE did not always document technical evaluations and rankings

MHBE did not adequately document the technical evaluations and rankings of the vendors for all four TORFRs tested. Specifically, the evaluation committee's assessment of each of the evaluation criteria was not formally tabulated for any of the vendors and a summary of the final technical rankings was not prepared for five of the nine task orders awarded totaling \$1.4 million.

MHBE did not adequately verify vendor technical qualifications

MHBE did not adequately verify each vendor's technical qualifications for each TORFR tested. As a result, certain vendors were selected that did not appear to meet the related qualifications.

- MHBE did not ensure that vendors selected for tasks had been approved in the master contract to provide work in that IT functional area. This is significant because our review disclosed that MHBE awarded a \$206,560 contract to a vendor that had not been approved to perform work in the IT functional area specified in the TORFR solicitation. MHBE advised us that it was unaware that an ineligible vendor had been selected, and had only sent the solicitation to vendors approved in the functional area specified in the TORFR. MHBE could not explain how this vendor became aware of and submitted a proposal for this TORFR. Although we notified MHBE of this matter in October 2017, no action was taken to replace the vendor as of January 31, 2018 because MHBE stated it felt the vendor was effectively performing its duties.
- For the four TORFRs tested, MHBE did not document its reviews of the qualifications of the vendor employees. MHBE's procedures require an evaluation committee to review the resume of each of the employees included in the vendor proposal against minimum qualifications specified in the TORFR. In addition, MHBE was to review and approve the qualifications of any substitute employees in the event an approved employee is no longer able to work on the task. Although MHBE management personnel advised us that they reviewed the qualifications of these employees, they could not provide us with documentation of the reviews. As a result, there was a lack of assurance that the employees working on the contracts met the minimum qualifications.

For two of the four TORFR solicitations tested, resulting in three task order awards totaling \$825,000, four employees were subsequently replaced. Based on our review, the four substitute employees did not meet the minimum qualifications required by the TORFR, including one that had not obtained a bachelor's degree as required by the TORFR. MHBE management advised us that, in this instance, it waived the educational requirements for the replacement employee because the employee met the technical qualifications specified in the solicitation. However, waivers of the educational requirements were not expressly allowed by the TORFR, and MHBE could not provide documentation of management's waiver.

### **Recommendation 3**

**We recommend that MHBE**

- a. obtain MHBE Board approval for the information systems master contract and task orders over \$200,000,**
- b. document all technical evaluations and rankings,**
- c. ensure that vendors selected for tasks had been approved to provide work in that IT functional area,**
- d. verify the technical qualifications of all proposed and substitute employees and document the verification process, and**
- e. review the qualifications of the unqualified vendor and vendor employees noted above and take appropriate corrective action.**

### **Finding 4**

**MHBE's procurement policies and procedures did not establish a minimum period for submission of solicitations, and did not provide for adequate control over the bid submission and bid opening processes.**

### **Analysis**

MHBE's procurement policies and procedures did not establish a minimum period for the submission of solicitations, and did not provide for adequate control over the bid submission and bid opening processes.

- MHBE's procurement policy and procedures did not establish a minimum period for the solicitation of competitive bids and proposals. Instead, its policy and procedures specified that potential bidders should be given "reasonable time" to prepare and submit bids. The lack of a minimum time for the solicitations allowed MHBE to establish different solicitation periods for each competitive procurement and may unnecessarily limit competition if the response period is too short given the nature and complexity of the solicitation.

For example, MHBE only allowed bidders 14 days to submit a proposal for its aforementioned Information Systems Master Contract, which attracted 48 proposals. By comparison, the July 2012 solicitation period for the Department of Information Technology's (DoIT) Consulting and Technical Services Plus master contract request for proposal was 37 days and attracted 359 proposals. These two contracts were similar in terms of functional areas solicited under the procurement. We noted other MHBE procurements had solicitation periods for competitive procurements of up to 47 days. Given the complexity of the procurement and the number of task orders awarded under

its Information Systems Master Contract, a longer solicitation period may have resulted in the submission of more proposals.

- MHBE's procurement policy and procedures did not require that bids be secured prior to opening with passwords sent to employees independent of the procurement process. MHBE advised us that vendors generally emailed bids and proposals directly to two MHBE employees that were designated to receive them. We noted that bid documents were not password protected for 10 procurements reviewed with related contract awards totaling \$2.3 million. MHBE could use the State's *eMaryland Marketplace (eMM)* which has built-in security over the bid submission process to ensure the integrity of the procurement process.
- MHBE's procurement policy and procedures did not require that written documentation be maintained to substantiate the opening of competitive sealed bids and proposals. Therefore, there was no record of the date and time of bid openings and of those in attendance. MHBE advised us that, although the invitation to bid contained the date and time that bids and proposals were to be opened, only certain MHBE procurement personnel were present during the bid openings but there was no documentation to support the employees that were present.

State Procurement Regulations require a minimum bidding time of 20 days, that bids be secured and opened in the presence of at least two employees, and that a record be maintained of the date bids were opened. Although MHBE is exempt from these laws and regulations, these controls could increase competition and would enhance the security and integrity of its procurement processes.

#### **Recommendation 4**

**We recommend that MHBE**

- a. amend its procurement policy and procedures to establish a minimum solicitation period for competitive procurements that encourages broad competition,**
- b. restrict access to bid documents such as by using the automated bid submission features of *eMM*, and**
- c. maintain documentation of the dates the bid documents are opened and of the two employees witnessing the bid openings.**

**Finding 5**

**MHBE did not sufficiently verify the propriety of billings from its customer support vendor, which totaled \$25.6 million during fiscal year 2017, and ensure that the vendor met certain contract performance measures.**

**Analysis**

MHBE did not sufficiently verify the billings received from its customer support vendor that was responsible for assisting individuals with their applications for and enrollment in either a Qualified Health Plan or Medicaid through the State's health insurance marketplace. MHBE also did not adequately ensure that the vendor met certain contract performance measures. During fiscal year 2017, MHBE payments to this vendor totaled \$25.6 million.

Our review of vendor invoices for two months during fiscal year 2017 totaling \$5.1 million, which included direct labor charges of \$4.6 million, disclosed that MHBE did not obtain documentation to verify the propriety of the billed costs totaling \$4.9 million. For example, although labor charges were based upon hours worked by the vendor's customer service representatives (CSRs), MHBE did not obtain supporting documentation, such as detailed time summaries and the related CSR time records. The contract required the vendor to bill MHBE monthly for services provided, including vendor labor, telephone, and internet costs, and sub-contractor document printing and mailing costs. While the contract did not specifically require the vendor to submit documentation to support the charges on its invoices, as the contract was structured, such documentation was needed for MHBE to verify the propriety of the invoiced amounts.

MHBE also did not ensure that the vendor met certain contract performance measures for the two invoices tested. The contract provided that the vendor was required to reduce its monthly billed charges or provide additional training to its staff if it did not meet benchmarks established by the contract for performance-related measures. Our review of two of the nine measures (CSR turnover rate and accurate response to phone inquiries) for these two invoices disclosed that MHBE did not request the underlying supporting documentation (such as detailed records of successfully resolved applicant and enrollee calls to CSRs) to verify that the vendor accurately reported its level of achievement with the measure. Our review also disclosed that the CSR turnover measure was not met for one of the tested months, and no corrective action was taken by MHBE.

As a result, assurance was lacking that amounts paid by MHBE were proper and in accordance with the contract, and that performance goals of the contract were being met. A similar condition regarding the lack of adequate verifications of vendor billings was noted in our preceding audit report.

### **Recommendation 5**

**We recommend that MHBE request and perform a documented review of appropriate supporting documentation from the vendor to support charges billed (repeat) and performance-related measures reported.**

## **Connector Program Grants**

### **Finding 6**

**MHBE did not verify the propriety of payroll expenditures reported by one of the seven Connector Program grantees.**

### **Analysis**

MHBE did not verify the propriety of payroll expenditures reported by one of the seven Connector Program grantees. Our test of billings from the seven connector entities for November 2016 totaling \$946,569 disclosed that MHBE did not verify the propriety of the payroll and fringe benefit costs reported by one connector entity totaling \$183,065. MHBE advised us that it did not review any of the \$2.3 million in payroll and fringe benefit costs submitted by this connector entity for fiscal year 2017 because MHBE did not know how the invoiced amounts were calculated based on the support submitted. Consequently, MHBE lacked assurance that the payroll-related costs invoiced by this one connector entity were proper based on its grant agreement.

MHBE administered grants supporting the Connector Program to provide outreach and enrollment services to individuals who do not have insurance and to work with vulnerable and hard-to-reach populations. The Connector Program is administered by seven connector entities, serving eight geographic regions throughout the State, each receiving a separate annual grant award. Each connector entity submits monthly invoices to MHBE to obtain reimbursement of reported expenditures, not to exceed the annual allocated budgets provided for in its grant agreement.

During fiscal year 2017, MHBE disbursed Connector Program grants totaling approximately \$8.9, including \$3.1 million to the aforementioned connector entity. Grant agreements for these entities state that funds shall be expended in accordance with the budget and that connector entities shall submit appropriate documentation to support the expenditures billed. In instances in which MHBE determines that expenditures are not proper, MHBE may deny reimbursement of the funds.

## **Recommendation 6**

**We recommend that MHBE request and review sufficient documentation that supports the propriety of all expenditures charged to Connector Program grants.**

## **Information Systems Security and Control**

### **Background**

On February 24, 2014, MHBE entered into a separation agreement that terminated the contract with the primary contractor who developed the original Exchange System. Nevertheless, MHBE has kept the MHBE-owned equipment containing enrollment data from the original Exchange System launch at a datacenter owned by the parent company of the primary contractor, pending the resolution of litigation with contractors.

Subsequently, MHBE contracted with a vendor<sup>2</sup> to host the replacement Exchange System and related services that became operational in November 2014. To help provide these services, this vendor subcontracted with other vendors for datacenter services, disaster recovery services, server maintenance, operation of servers and network equipment, and wide area network and telecommunications management. MHBE personnel maintained the application programming code for multiple significant applications comprising the replacement Exchange System. MHBE is responsible for defining the general security requirements over the System, and it is the vendor's responsibility to implement the security measures.

The replacement Exchange System consists of a public consumer Internet portal (that is, the Maryland Health Connection) and an internal worker portal. The consumer portal allows for consumers to shop for healthcare plans, determine eligibility for various subsidies/tax credits, enroll (or renew enrollment) in a Qualified Health Plan or Medicaid, and manage related information (for example, demographics, income, health information). Brokers and connector entities also have access to the consumer portal to assist consumers in enrolling in healthcare plans.

The worker portal provides State employees and contractors the ability to support the consumers' enrollment in healthcare plans or Medicaid, manage related case information, and manage the application process. Numerous State employees

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<sup>2</sup> The replacement Exchange System vendor subsequently divested its business services operations into a separate new company, which assumed the entire MHBE replacement Exchange System contract.

from MDH and DHS also assist in supporting MHBE by performing case worker services pertaining to clients. MHBE headquarters and information technology personnel work at two metropolitan Baltimore locations on a shared network. Additional State network connections exist to enable MHBE and the applicable MDH and DHS case workers to connect to the datacenter hosting the replacement Exchange System.

**Finding 7**

**MHBE did not establish adequate application maintenance controls for documenting, approving, and moving program changes into production and lacked intrusion detection prevention system (IDPS) coverage for encrypted traffic entering the hosted Exchange System network.**

**Analysis**

MHBE did not establish adequate application maintenance controls for documenting, approving, and moving program changes into production and lacked IDPS coverage for encrypted traffic entering the hosted Exchange System data center network.

- MHBE personnel maintained the application program code for multiple significant application systems supporting Exchange functions such as file transfers to and from external parties and access management. Our review determined that critical production program change procedures, which support the control and processing of agency production programs and data files, were not subject to adequate MHBE monitoring. For all 10 program changes tested, reports of source code changes did not exist, with 8 of the 10 changes also lacking documentation that both MHBE management approved the change and that someone other than the responsible programmer moved the modified programs into production. As a result, there was a lack of assurance that production data and programs were processed in a manner approved by MHBE management. Best practices contained in the State of Maryland *Information Security Policy* require that agencies implement an appropriate change management process to ensure changes to systems are controlled.
- IDPS coverage did not exist for encrypted traffic entering the hosted Exchange System data center network. MHBE personnel advised us that this hosting center's two firewall devices were not decrypting traffic and performing inspection of traffic for IDPS purposes. Additionally, host-based intrusion protection system (HIPS) software was not installed directly on any of the servers which received encrypted traffic. In this regard, we identified eight separate destination servers that received encrypted traffic. Without

IDPS coverage for such encrypted traffic, network security risk arises, as such traffic could contain malicious data which are not detected or dropped. Best practices contained in the aforementioned *Information Security Policy* require that agencies protect against malicious code and attacks by implementing protections including the use of IDPS to monitor system events, detect attacks, and identify unauthorized use of information systems and/or confidential information. A similar condition was commented upon in our preceding audit report.

#### **Recommendation 7**

**We recommend that MHBE**

- a. generate appropriate reports of changes to production program source code and document that all program changes were properly reviewed, approved, and independently migrated into production status, with such documentation being retained for future reference; and**
- b. for the hosted Exchange System data center, perform a documented review and assessment of its network security risks, and identify how IDPS and/or HIPS coverage should be best applied to its network and implement this coverage for encrypted traffic from all untrusted parties (repeat).**

#### **Finding 8**

**MHBE lacked security assurances over critical data on servers hosted by contractors.**

#### **Analysis**

MHBE lacked security assurances over critical data on servers hosted by contractors for both the original and replacement Exchange Systems.

#### Original Exchange System

MHBE lacked assurance that the original Exchange System servers still in the custody of the parent company of the primary contractor were properly secured. These servers hosted enrollment data containing sensitive personally identifiable information (PII) and FTI. As of January 2018, MHBE had neither performed independent security reviews of the aforementioned contractor's data center for the original Exchange System nor obtained reports of independent, standards-based security reviews of the parent company of the primary contractor. Such reviews should include tests to ensure that sufficient controls existed over the equipment, data, and programs residing on the original Exchange System servers following the termination of the contractor's original contract in February 2014.

Based on our inquiries, it was subsequently determined that the aforementioned parent company of the primary contractor did have an independent, standards-based security review of its system (which hosted the original Exchange System) performed for the period January 1, 2016 to September 30, 2016. We reviewed the resulting Service Organization Controls (SOC 1 Type 2) report dated January 18, 2017 to ensure that the security review assessed and tested the appropriate controls (for example, security) over the system hosting the original Exchange System servers. Although the report did not disclose any significant operational or security-related concerns, such SOC 1 reports focus on service organization controls relevant to financial reporting for user entities and would not provide MHBE the degree of assurances necessary for confirming the security of MHBE data. MHBE should ensure that needed security reviews are performed, as necessary, until the original Exchange System is decommissioned and the equipment, data, and programs residing on the original Exchange System are transferred out of the custody of the parent company of the primary contractor. A similar condition was commented upon in our preceding audit report.

#### Replacement Exchange System

The contract between MHBE and the replacement Exchange System primary contractor covered the period from June 1, 2014 to May 31, 2019 and cost \$29.2 million. However, the contract did not provide adequate assurances that the network and servers were properly secured.

- The contract did not require an annual independent standards-based security review be performed of the replacement Exchange System. Instead, the contract required that the contractor obtain an independent, security review only once every two years. Considering the critical nature and importance of this network and servers, we believe that performing an independent security review only once every two years is not sufficient to provide MHBE with timely assurances that security controls over the hosted systems are adequate. Additionally, industry standards typically provide that such security reviews be conducted annually.
- The contract did not require that the independent, standards-based security review be structured as a SOC 2 Type 2 review to provide the proper assurances with respect to controls which address for example, security, availability, and confidentiality. In this regard, as noted in Finding 7, our review of the hosted MHBE data center network disclosed that IDPS coverage did not exist for encrypted traffic entering the network, which is a significant control deficiency.

- The contract did not contain any provisions that the primary contractor's three main subcontractors (which performed material system hosting, server maintenance, and operational services for the replacement Exchange System) were required to obtain independent, standards-based security reviews. Although not required by the contract, after our inquiry, on December 24, 2017, MHBE obtained and reviewed a SOC 2 Type 2 report made for the system hosting subcontractor for the period of May 1, 2016 through April 31, 2017, which was issued on May 3, 2017. We reviewed the report and found that the review did not identify any control weaknesses.

The American Institute of Certified Public Accountants has issued guidance concerning examinations of service organizations. Based on this guidance, service organizations (like the aforementioned contractors and subcontractors) may contract for an independent review of controls and the resultant independent auditor's report is now referred to as a System and Organization Controls report. There are several types of SOC reports, with varying scopes and levels of review and auditor testing. One type of report, referred to as a SOC 2 Type 2 report, includes the results of the auditor's review of controls placed in operation and tests of operating effectiveness for the period under review and could include an evaluation of system security, availability, processing integrity, confidentiality, and privacy.

Similar conditions were commented upon in our preceding audit report in regard to security review frequency, structure, and scope involving subcontractors performing significant services. MHBE personnel advised us that they determined that the primary contractor was open to obtaining SOC 2 Type 2 reviews for itself and its significant subcontractors but that MHBE ultimately did not pursue such a contract amendment due to timing and the increased costs involved.

#### **Recommendation 8**

**We recommend that MHBE**

- a. obtain SOC reports for periods during which MHBE enrollment data are hosted by the parent company of the primary contractor responsible for the original Exchange System (repeat);**
- b. review all SOC reports for the original Exchange System and take appropriate action (including MHBE supplemental reviews if required) to ensure that any critical operational and security-related concerns are properly addressed (repeat); and**
- c. ensure that future contracts between MHBE and the hosting contractor for the Exchange System require that SOC 2 Type 2 reviews are**

**performed, at least annually, for the primary hosting contractor and for all material services provided by subcontractors (repeat).**

## **Audit Scope, Objectives, and Methodology**

We have conducted a fiscal compliance audit of the Maryland Health Benefit Exchange (MHBE), for the period beginning July 24, 2014 and ending June 30, 2017. The audit was conducted in accordance with generally accepted government auditing standards except for certain requirements related to obtaining sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Specifically, as described on page 6 of this report, our audit scope was limited with respect to assessing certain aspects of internal controls over the Medicaid eligibility process and the related compliance with State laws, rules, and regulations. This scope limitation was due to restrictions imposed by the federal Internal Revenue Code on access to federal tax information as well as MHBE's application of those restrictions to applicant data.

Generally accepted government auditing standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Except for the effects of the scope limitation described above, we believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine MHBE's financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of significance and risk. The areas addressed by the audit included procurements and disbursements, the Medicaid eligibility process, federal fund reimbursements, monitoring of State-awarded grants, and information system security. We also determined the status of the findings contained in our preceding audit report.

Our audit did not include certain support services related to grant management provided by the Maryland Department of Health – Office of the Secretary (MDH). These services included drawdowns of federal funds including indirect cost allocations, reconciling grant revenue and expenditures, and recording payment transactions in the State's accounting system. Our audit also did not include certain support services, such as financial, human resources, information technology, and payroll services, which were provided by MDH until March 1, 2015 when MHBE assumed these responsibilities. Finally, our audit did not

include an evaluation of internal controls for federal financial assistance programs because the State of Maryland engages an independent accounting firm to annually audit such programs administered by State agencies, including MHBE.

To accomplish our objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, observations of MHBE's operations, and tests of transactions. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk. Unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, the results of the tests cannot be used to project those results to the entire population from which the test items were selected.

We also performed various data extracts of pertinent information from the State's Financial Management Information System (such as expenditure data). The extracts are performed as part of ongoing internal processes established by the Office of Legislative Audits and were subject to various tests to determine data reliability. We determined that the data extracted from these various sources were sufficiently reliable for the purposes the data were used during this audit. We also extracted data from MHBE's Maryland Health Connection system for the purpose of reviewing MHBE's procedures and related system controls. We performed various tests of the relevant data and determined that the data were sufficiently reliable for the purposes the data were used during the audit. Finally, we performed other auditing procedures that we considered necessary to achieve our objectives. The reliability of data used in this report for background or informational purposes was not assessed.

MHBE's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records; effectiveness and efficiency of operations including safeguarding of assets; and compliance with applicable laws, rules, and regulations are achieved.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

This report includes findings relating to conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect MHBE's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also includes findings regarding significant instances of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to MHBE that that did not warrant inclusion in this report.

MHBE's response to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise MHBE regarding the results of our review of its response.



October 12, 2018

Mr. Thomas J. Barnickel III, CPA  
Legislative Auditor  
Office of Legislative Audits  
301 West Preston Street, Room 1202  
Baltimore, MD 21201

Dear Mr. Barnickel:

Thank you for your letter regarding the draft audit report for the Maryland Health Benefit Exchange for the period beginning June 24, 2014 through June 30, 2017. Enclosed you will find the Exchange's response and corrective actions with timeframes which address each audit recommendation.

I will work with MHBE's executive leadership team to promptly address the audit findings and recommendations. In addition, MHBE's chief compliance and privacy officer will follow-up on the corrective actions to ensure ongoing compliance. Our team takes great strides to improve the Exchange's overall operations, accountability, security and transparency and will continue to do so into the future.

I want to thank the OLA audit team for their professionalism, thoroughness and collegiality during their on-site review. If you have any questions or require additional information, please do not hesitate to contact me at 410-547-1270.

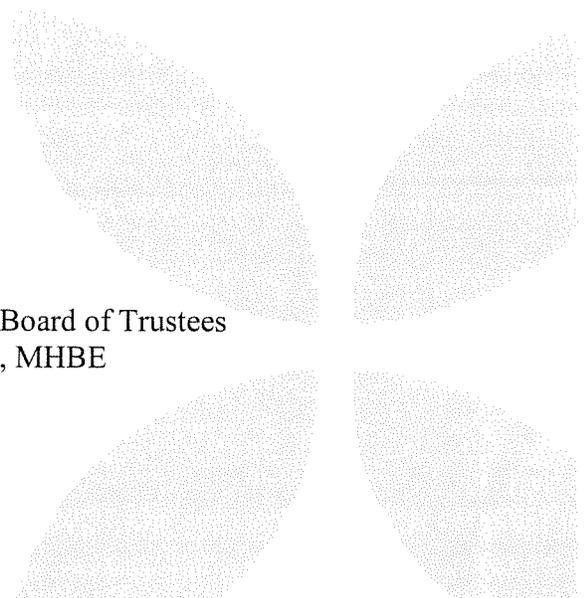
Sincerely,

A handwritten signature in black ink that reads "Michele Eberle".

Michele Eberle  
Executive Director

Enclosure

Cc: Robert R. Neall, Chair, Maryland Health Benefit Exchange Board of Trustees  
Caterina Pañgilinan, Chief Compliance and Privacy Officer, MHBE



**Maryland Health Benefit Exchange  
Response to OLA Audit Report – September 2018**

**Finding 1**

**MHBE relied solely on MABS, without using FTI, to verify the income of certain applicants even though MABS excluded many types of applicant income.**

**MHBE concurs with Finding 1.**

**Verify all applicant income information using both MABS and FTI data and, in conjunction with MCPA (Medical Care Program Administration), amend the agreement with CMS to require such a verification.**

**MHBE concurs with Recommendation 1.**

MHBE will collaborate with MCPA to outline a process by which all applicant income is verified using Maryland Automated Benefits System (MABS) and the Internal Revenue Service (IRS). Additionally, MHBE is reviewing the feasibility of using more current monthly income data available via the federal data services hub (FDSH).

To improve the currency of earned income information, MHBE collaborated with its federal partners regarding the ability to obtain online data available through the FDSH that is updated monthly by from a third-party data source. MHBE will take the following actions to evaluate the impact use of this data has on the quality of income verification: 1) obtain sample monthly income bulk data from FDSH; 2) based on the sample data, analyze whether or not Medicaid renewal percentages improve and caseworkers' manual income verifications decrease; and, 3) if analysis finds a marked improvement in Medicaid renewal percentages or a reduction in manual verifications, work with Maryland Medicaid to operationalize process.

Projected Implementation: May 31, 2019.

MHBE concurs with the recommendation to receive applicants' unemployment income via MABS. MHBE extended its Memorandum of Understanding and Data Use Agreement with Maryland Department of Labor, Licensing and Regulations (DLLR) to allow further delineation of required data elements and processes. Note that DLLR is currently moving MABS data to the cloud, which representatives estimate to be completed in 2019. Subsequent to successful implementation, DLLR will develop and test new code in order to provide unemployment income information to MHBE.

Projected implementation: August 31, 2019.

MHBE recognizes that validation of all Medicaid recipients' income against IRS data may significantly impact the State Medicaid program's current workload. IRS tax information can be up to two years old, while Medicaid validates against current monthly income. Use of older data for all applicants may trigger a significant increase in unacceptable variances between the tax data and applicants' attested current incomes, thus increasing the need for caseworkers to manually verify applicant income. MHBE will collaborate with MCPA as it incorporates use of federal tax records to obtain earned and unearned income data for all applicants in order to meet

42 CFR 205.51 Income and Eligibility Requirements, mitigate underreporting of income, and minimize adverse impact on workforce efficiency or effectiveness.  
Projected Implementation: May 31, 2019.

**Finding 2**

**MHBE did not properly restrict or document its review of user access to MHC and did not use available reports to monitor critical changes to applicant eligibility information.**

**MHBE partially concurs with Finding 2.**

MHBE provides the “SuperUser” role to Maryland Department of Health (MDH) and Department of Human Services (DHS) caseworkers primarily to correct Medicaid eligibility for cases wherein the Health Benefit Exchange system (HBX) may yield an incorrect result due to family configuration (caretaker relatives, for example) or to correct an eligibility date impacted by consumer churn between being a Medicaid recipient, then not a Medicaid recipient. Completion of these tasks in HBX is a primary function for MDH and DHS caseworkers. Only select Consumer Services Representatives (CSRs) and MHBE contractors receive the “SuperUser” role in order to access the full range of HBX screens for complex research activities in order to resolve escalations and inconsistencies.

**2a. Limit access to the SuperUser role to staff requiring such access and use available system features to obtain reports to monitor any changes to critical information (override transactions) processed by SuperUsers.**

**MHBE concurs with Recommendation 2a.**

In August 2018, MHBE engaged a project team to comprehensively analyze the “SuperUser” role with the objective of providing “override” capability only to a limited number of MDH, DHS and MHBE designated workers. The team recommended a second user role be developed to allow all caseworkers and consumer support workers the level of access needed to assist consumers in completing and/or correcting information contained in the consumers’ applications. This support role will be modified to meet the most restrictive level of access while affording the user the capability to perform their job functions.

Projected Implementation: March 31, 2019.

**2b. Ensure that all user capabilities are subject to an annual review by appropriate independent supervisory personnel and that such reviews are adequately documented.**

**MHBE concurs with Recommendation 2b.**

The project team will re-design the user privileging process to meet or exceed the Minimum Acceptable Risks Standards for State-based Exchanges v2 access control standards which include annual review by appropriate personnel.

Projected implementation: March 31, 2019.

**2c. Use available system reports to identify and review changes to the initial manual verification eligibility status.**

**MHBE concurs with Recommendation 2c.**

To improve transparency in the verification process, MHBE designed and piloted a process step which requires workers to document in the HBX the reason for a consumer's change in eligibility status. This step's objective was to allow comparison of a consumer's change in status as entered by a Super User against the uploaded documentation to test the validity of the status change. After MHBE initiated the requirement and generated monitoring reports, analysis of several months of data found that use of "free text" comment fields inadequately categorized reasons that could readily be vetted against supporting documentation. MHBE operations and IT reporting team members are currently developing more refined, mandatory drop down boxes that contain fields which accurately represent and categorize reasons for status changes.

Concurrently, MHBE and MDH assessed the criticality of various override scenarios for which the team is designing reports in support of improved oversight activities to better identify and mitigate fraud risk.

Projected Implementation: February 28, 2019.

**Finding 3**

**MHBE did not obtain MHBE Board approval for its Information Systems Master Contract and did not adequately document its evaluation of vendor task order proposals nor ensure that all vendors approved under the individual task orders were properly qualified.**

**MHBE concurs with Finding 3.**

MHBE recommended use of the Indefinite Delivery/Indefinite Quantity (IDIQ) contracting model to improve flexibility, streamline the contract process, speed delivery of services and significantly reduce the costs paid for services that had previously been performed by larger contractors at significantly higher costs. MHBE presented and received the Board's ratification of a budget for the Master Contracts for Indefinite Delivery/Indefinite Quantity in an amount not to exceed (NTE) \$8.1 million for FY 2016 but did not seek approval of Master Contractors or subsequent task orders.

While MHBE performed a rigorous evaluation process prior to awarding Master Contracts and Task Order Requests for Proposals (TORFPs), the documentation process did not consistently meet the expected level of quality and, as evidenced by the finding, resulted in errors.

**3a. Obtain MHBE Board approval for the information systems master contract and task orders over \$200,000.**

**MHBE partially concurs with Recommendation 3a.**

MHBE does concur with the recommendation that the Board approve all Master Contractors, by company name, and the overall annual IDIQ budget in advance of initial award even though the Master Contractors will not have any money associated with them until task orders are approved.

On April 16, 2018, MHBE received Board approval for a Fiscal Year 2019 NTE amount of \$18.2 million to be awarded to 98 Master Contractors that the Board approved to provide specific functional services under the IT Technical Support Services Indefinite Delivery, Indefinite Quantity Request for Proposals issued on February 27, 2018 (Solicitation No. MDM0031036680) (the “2018 IDIQ RFP”).

In June 2018, the Board approved inclusion in its procurement policies and procedures (PPP) the master contracting methodology and the requirement that MHBE’s executive director report to the Board at the next regular meeting the award of any task order to a Master Contractor, the name of Master Contractor to which any task order has been awarded, and the amount of the task order awarded to that Master Contractor. Information from these reports will be integrated into MHBE’s annual procurement report to the Board, which includes all contracts awarded during the fiscal year.

MHBE will recommend to the Board that the PPP be revised to include the total dollar amount of task orders awarded to the Master Contractor in the executive director’s report at the next regular meeting. Additionally, although not bound by these regulations, MHBE will consider current proposed action on Board of Public Works regulations related to the practice of task orders over \$200,000 being presented, reviewed and approved by the Board prior to execution.  
Projected Implementation: January 1, 2019.

**3b. Document all technical evaluations and rankings.**

**MHBE concurs with Recommendation 3b.**

MHBE will develop and implement internal management procedures that describe the process for accurate documentation and retention of all technical evaluations and rankings.  
Projected Implementation: December 31, 2018.

**3c. Ensure that vendors selected for tasks had been approved to provide work in that IT functional area.**

**MHBE concurs with Recommendation 3c.**

MHBE implemented a process which includes a redundant check by the procurement specialist to ensure vendors have been approved to provide work in a given functional area.  
Implemented: July 1, 2018.

**3d. Verify the technical qualifications of all proposed and substitute employees and document the verification process.**

**MHBE concurs with Recommendation 3d.**

MHBE will institute an internal management procedure wherein vendor qualifications and the qualifications of all selected and substitute candidates are requested and reviewed in keeping with requirements in the 2018 IDIQ RFP. The 2018 IDIQ RFP includes the requirement that a substitute candidate meets at least the qualifications of the previously awarded resource. To promote transparency and compliance, MHBE compliance will audit implementation of the revised procedures.

Projected Implementation: December 31, 2018.

**3e. Review the qualifications of the unqualified vendor and vendor employees noted above and take appropriate corrective action.**

**MHBE concurs with Recommendation 3e.**

MHBE contracted with 98 Master Contractors to provide specific functional services under the 2018 IDIQ RFP. The period of performance began July 1, 2018. MHBE reviewed all vendor qualifications to ensure Master Contractors met the requirements specified in the RFP.

The individual contractors mentioned in the finding no longer perform services for MHBE.

Implemented: July 1, 2018.

**Finding 4**

**MHBE's procurement policies and procedures did not establish a minimum period for submission of solicitations, and did not provide for adequate control over the bid submission and bid opening processes.**

**MHBE concurs with Finding 4.**

**4a. Amend its procurement policy and procedures to establish a minimum solicitation period for competitive procurements that encourages broad competition.**

**MHBE concurs with Recommendation 4a.**

MHBE will incorporate into its internal management procedures a guideline of 14 to 21 days for bidders/offerors to respond to competitive invitations for bids and requests for proposals, subject to the discretion of the procurement officer. MHBE reserves the ability afforded it by statute to meet the distinct needs of a procurement while providing enough time for open competition. Additionally, MHBE will make recommendation to the Board to include in its PPP the guideline of 14 to 21 days for submission of solicitations, subject to the discretion of the procurement officer to fulfill the needs of the agency.

Projected Implementation: December 31, 2018.

**4b. Restrict access to bid documents such as by using the automated bid submission features of *eMM*.**

**MHBE concurs with Recommendation 4b.**

MHBE’s procurement officer is currently analyzing the use of the automated bid submission features of eMM as well as other best practices to restrict access to bid documents. Upon final determination, MHBE will update its internal management procedure, Competitive Sealed Bids, to reflect the chosen practice.

Projected Implementation: December 31, 2018.

**4c. Maintain documentation of the dates the bid documents are opened and of the two employees witnessing the bid openings.**

**MHBE concurs with Recommendation 4c.**

MHBE will incorporate into its internal management procedure, Competitive Sealed Bids, a process by which to record the opening dates of bid documents and memorialize that at least two employees witness all competitive sealed bid openings. In addition to posting awards on MHBE’s website, MHBE will post competitive sealed bid contract awards on eMM.

Projected Implementation: December 31, 2018.

**Finding 5**

**MHBE did not sufficiently verify the propriety of billings from its customer support vendor, which totaled \$25.6 million during fiscal year 2017, and ensure that the vendor met certain contract performance measures.**

**MHBE partially concurs with Finding 5.**

MHBE’s Consolidated Services Center (CSC) contract monitor reviewed all monthly invoices and at times requested and reviewed various backup documentation to confirm the amounts billed by the CSC vendor and the vendor’s claims regarding certain service level metrics. However, MHBE acknowledges that when reviewing billings for vendor labor costs, the contract monitor usually relied on prospective reports of hours scheduled to be worked rather than retrospective reports of actual hours worked.

While MHBE’s contract monitor did not request supporting documentation to verify the accuracy of the vendor’s reported level of achievement with each performance measure, the contract monitor based approval of invoices on information garnered from regular meetings with vendor staff and review of daily, weekly and monthly reports on the number of calls abandoned, the average answer time, trends in quality rankings of CSR performance and new initiatives to improve call center performance. The contract monitor’s regular involvement and communication with, as well as ongoing assessment of, the CSC vendor and detailed knowledge of the vendor’s continuous efforts to meet its performance measures provided the contract monitor with a degree of confidence in the vendor’s reports of meeting or exceeding its service level metrics.

**Request and perform a documented review of appropriate supporting documentation from the vendor to support charges billed (repeat) and performance-related measures reported.**

**MHBE concurs with Recommendation 5.**

It is MHBE’s understanding that OLA’s Fiscal Compliance Audit Report of October 2015 recommendation related to charges billed was based on MHBE inconsistently requesting or maintaining evidence of reviewing time sheets from individual contractual IT workers before paying their related invoices. MHBE believes while the current audit’s recommendation relates to charges billed, the findings noted in the two audits are decidedly different. The recommendation from this most recent audit references MHBE’s review of summary documentation regarding the actual number of hours worked by call center workers rather than relying on the review of a prospective report indicating the number of hours scheduled to be worked. Given that both the contexts and facts of the two recommendations are different, MHBE disagrees with the label of “repeat” recommendation.

MHBE’s new contract with its CSC vendor requires that billings are based on clearly defined and measurable Service Level Agreements (SLAs) rather than the number of hours worked. MHBE requires the CSC vendor to provide with its invoices supporting documentation to substantiate payments related to performance measures. On a regular basis, the contract monitor will enter data into a dashboard indicating which service metrics were met, and the dashboard will be reviewed by the contract monitor’s supervisor for recommended action. Projected Implementation: November 30, 2018.

MHBE’s contract monitor is in the process of developing methodologies by which to independently validate the accuracy of charges billed and of performance related measures. In that the Call Center and fulfillment center have sophisticated software designed to track a multitude of performance measures, MHBE may be reliant on vendor submitted supporting documentation rather than independently measuring performance related metrics. For example, to independently measure the number of calls received within a month would be impracticable because measurement would have to be manually performed, i.e., count the number of calls the Call Center received in a month, which averages about 96,000. Therefore, the contract monitor will identify trends and variances to approximate those measurements which cannot be independently validated and request supporting documentation from the respective vendors. Projected Implementation: November 30, 2018.

**Finding 6**  
**MHBE did not verify the propriety of payroll expenditures reported by one of the seven Connector Program grantees.**

**MHBE concurs with Finding 6.**

MHBE’s Connector Entity Program Manager served as the contract monitor for all Connector Entity grants. The contract monitor requested, received and reviewed backup documentation for expenditures on Connector Entity invoices. MHBE acknowledges that in the case of one of its six Connector Entity grantees, the backup documentation provided by the grantee for its payroll and related fringe benefit costs was on a cash basis while the grantee requested reimbursement

for an amount calculated on an accrual basis. This variance resulted in a lack of alignment between the amount invoiced and the backup documentation provided. MHBE used the payroll reports provided by that grantee to ensure that all labor charges billed against the grant were for individuals working on the grant and serving MHBE's consumers.

**Request and review sufficient documentation that supports the propriety of all expenditures charged to Connector Program grants.**

**MHBE concurs with Recommendation 6.**

MHBE requires each Connector Entity grantee to provide detailed backup documentation to support all expenditures charged to the Connector Entity program grants. To enhance this internal control, MHBE now requires each Connector Entity's backup documentation for salary and benefit costs billed against the Connector Entity grant to directly support the sum total billed for salary and benefit costs appearing as a line item on the invoice. In the event that a Connector Entity generates its payroll reports on a cash basis but invoices MHBE on an accrual basis, the grantee must provide reconciling documentation to explain how the payroll report supports the amounts invoiced to MHBE.

Implemented: May 31, 2018.

**Finding 7**

**MHBE did not establish adequate application maintenance controls for documenting, approving, and moving program changes into production and lacked intrusion detection prevention system (IDPS) coverage for encrypted traffic entering the hosted Exchange System network.**

**7a. Generate appropriate reports of changes to production program source code and document that all program changes were properly reviewed, approved, and independently migrated into production status, with such documentation being retained for future reference.**

**MHBE concurs with Recommendation 7a.**

MHBE has numerous internal controls and oversight mechanisms for the documentation, approval and movement of program changes into production. To further enhance our code review process, MHBE created additional workflows in its current tracking application to improve documented code reviews and include comments by those accountable to oversee said reviews. The tracking application is the repository from which future references can be made.

Implemented: September 28, 2018.

**7b. For the hosted Exchange System data center, perform a documented review and assessment of its network security risks, and identify how IDPS and/or HIPS coverage should be best applied to its network and implement this coverage for encrypted traffic from all untrusted parties (repeat).**

**MHBE concurs with Recommendation 7b.**

MHBE regularly performs information security risk assessments and documents their review processes and outcomes. MHBE agrees to implement Host Intrusion Prevention System (HIPS), where needed, to improve the coverage of MHBE's current alerting and detecting capabilities. MHBE partially implemented this recommendation on September 30, 2018. Due to code freeze during open enrollment, the next major enhancement will occur in the January 2019 release. Projected Implementation: January 31, 2019.

**Finding 8**

**MHBE lacked security assurances over critical data on servers hosted by contractors.**

**MHBE concurs with Finding 8.**

**8a. Obtain SOC reports for periods during which MHBE enrollment data are hosted by the parent company of the primary contractor responsible for the original Exchange System (repeat).**

**MHBE concurs with recommendation 8a.**

MHBE will obtain SOC reports from the parent company of the primary contractor responsible for the original Exchange System until such time as the primary contractor returns to MHBE and/or destroys all MHBE personally identifiable and federal tax information on its systems. Projected Implementation: January 1, 2019.

**8b. Review all SOC reports for the original Exchange System and take appropriate action (including MHBE supplemental reviews if required) to ensure that any critical operational and security-related concerns are properly addressed (repeat).**

**MHBE concurs with recommendation 8b.**

MHBE will provide ongoing oversight and require contractors to implement appropriate controls to address any critical operational and/or security concerns identified in the SOC reports. Projected Implementation: January 1, 2019.

**8c. Ensure that future contracts between MHBE and the hosting contractor for the Exchange System require that SOC 2 Type 2 reviews are performed, at least annually, for the primary hosting contractor and for all material services provided by subcontractors (repeat).**

**MHBE concurs with recommendation 8c.**

MHBE will include in future contracts the requirement that the hosting vendor, and any of its subcontractors which perform material services, undergo SOC 2 Type 2 or similar independent audits annually. Projected Implementation: January 1, 2019.

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